

*Undeveloped lot = indirect support and
is non-dischargeable.*

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE

SOUTHERN DISTRICT OF GEORGIA
Savannah Division

In the matter of:

ROY JAMES BOHANNON
(Chapter 7 Case 488-01111)

Debtor

SYLVIA ANN BOHANNON

Plaintiff

v.

ROY JAMES BOHANNON

Defendant

Adversary Proceeding

Number 489-0006

FILED

at 12 O'clock & 2 1/2 min. P M

Date 6/1/89

MARY C. BECTON, CLERK
United States Bankruptcy Court
Savannah, Georgia *PCB*

MEMORANDUM AND ORDER

The above-captioned case was scheduled for trial on March 14, 1989, at 10:30 a.m., pursuant to Plaintiff's complaint to determine the dischargeability of certain marital obligations listed by the Debtor/Defendant in his Chapter 7 petition. Based on the stipulations of the parties and the evidence received, the Court makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1) The parties have stipulated that all payments in arrears which are directly attributable to the support of the children listed in the amount of \$1,500.00 are non-dischargeable pursuant to 11 U.S.C. Section 523(a)(5).

2) The parties have stipulated that all payments in arrears for reimbursement for medical and dental expenses for the children in the amount of \$436.63 are non-dischargeable pursuant to 11 U.S.C. Section 523(a)(5).

3) Evidence elicited from the Plaintiff established that the Debtor/Defendant and the Plaintiff were divorced on February 24, 1987, and as a part of the divorce decree, the Debtor was obligated to pay Dr. John Gary a dental bill of \$700.00 incurred for the benefit of the Plaintiff.

4) Also, pursuant to the divorce decree, the Debtor/Defendant was obligated to repay Ford Motor Credit Company on a car loan now totalling \$1,432.57. The aforesaid sum represents the deficiency balance after repossession of the secured collateral.

5) The Debtor/Defendant was also obligated to

pay under the divorce decree Oxford Finance Company on a loan which financed the purchase of real property in Hancock County, Georgia. The Debtor/Defendant failed to make payments on said obligation, and the Plaintiff has paid sums totalling \$1,341.63 to Oxford Finance Company. The Plaintiff has sought reimbursement of the aforesaid sums from the Debtor/Defendant. The total balance on said loan was \$2,985.05.

6) The Debtor/Defendant was obligated under the divorce decree to make monthly payments on a time share plan with Island Villa Developers, Inc. Said obligation is in default and the loan balance is now \$5,573.55 with interest accruing at 15.75%.

7) At the time the Plaintiff and Debtor/Defendant were divorced, the Plaintiff and the parties' two minor children were dependent upon the Debtor/Defendant for support, maintenance and care. The Plaintiff was not employed and had not been employed during much of the marriage. On the other hand, the Debtor/Defendant was employed and was the primary source of support for the family. There was an imbalance in the relative income of the parties and their capacities to earn income at the time of the divorce.

8) Plaintiff testified that it was necessary

for the Debtor/Defendant to pay the obligations to Ford Motor Credit Company, Dr. John Gary, Island Villa Developers, Inc., and Oxford Finance Company in order for the Plaintiff to meet the daily necessities of food, clothing, shelter and transportation for her and the parties' minor children.

CONCLUSIONS OF LAW AND ORDER

All payments in arrears which are directly attributable to the support of the parties' minor children in the amount of \$1,500.00 are non-dischargeable pursuant to 11 U.S.C. Section 523(a)(5).

All payments in arrears for reimbursement for medical and dental expenses for the minor children totalling \$436.63 are non-dischargeable pursuant to 11 U.S.C. Section 523(a)(5).

The obligation of \$700.00 payable to Dr. John Gary incurred for the benefit of the Plaintiff is non-dischargeable pursuant to 11 U.S.C. Section 523(a)(5). It is clear that the payment of the debt under the divorce decree was actually in the nature of support for the former spouse and children. In re Harrell, 754 F.2d 902 (11th Cir. 1985).

The obligation of \$1,432.57 to Ford Motor Credit Company on a deficiency balance after repossession of the parties GTI Rabbit automobile awarded to Debtor/Husband is dischargeable. Plaintiff was awarded title to the 1978 Chevrolet van and, in this context, the husband's obligation to pay the Ford Motor Credit Company balance which was secured by vehicles awarded to him is not in the nature of alimony or support.

The obligation to Oxford Finance Company in the amount of \$2,985.05 is non-dischargeable pursuant to 11 U.S.C. Section 523(a)(5). Payment of the obligation under the divorce decree was intended as indirect payment of support for the Plaintiff and the parties' minor children. Harrell, supra.

Debtor's counsel has represented that Island Villa Developers, Inc., and Bank South are willing to release both the Plaintiff and the Debtor/Defendant from any further obligation to repay on the promissory note executed to Bank South N.A., on January 24, 1985 in return for a transfer of the Plaintiff's and Debtor's interest in the time share plan to Island Villa Developers, Inc. Based on counsel's representations and the agreement of the Plaintiff, the Debtor is discharged and released from all personal liability for such debt. There is a balance owing on said debt in the sum of \$5,573.05 at a rate of

15.75%. Said discharge is contingent upon the parties obtaining a full release from Island Villa Developers, Inc., and Bank South N.A., on said obligation.



Lamar W. Davis, Jr.
United States Bankruptcy Judge

Dated at Savannah, Georgia

This 26th day of May, 1989.

FILED

United States Bankruptcy Court

at 12 o'clock & 45 min. P.M.

Date 6/1/89

For the SOUTHERN District of GEORGIA

MARY C. BECTON, CLERK
United States Bankruptcy Court
Savannah, Georgia PCB

SYLVIA ANN BOHANNON

Case No. 488-01111

v.

Plaintiff

ROY JAMES BOHANNON

Defendant

Adversary Proceeding No. 489-0006

JUDGMENT

☒ This proceeding having come on for trial or hearing before the court, the Honorable
Lamar W. Davis, Jr., United States Bankruptcy Judge, presiding, and
the issues having been duly tried or heard and a decision having been rendered,

[OR]

☐ This proceeding having come on for trial before the court and a jury, the Honorable
United States Bankruptcy Judge, presiding, and
the issues having been duly tried and the jury having rendered its verdict,

[OR]

☐ The issues of this proceeding having been duly considered by the Honorable
United States Bankruptcy Judge, and a decision
having been reached without trial or hearing,

IT IS ORDERED AND ADJUDGED:

That all payments in arrears which are directly attributable to the support of the parties' minor children in the amount of One Thousand Five Hundred Dollars and 00/100 Cents (\$1,500.00) are non-dischargeable pursuant to 11 U.S.C. §523(a)(5).

That all payments in arrears for reimbursement for medical and dental expenses for the minor children totalling Four Hundred Thirty-Six Dollars and Sixty-Three Cents (\$436.63) are non-dischargeable pursuant to 11 U.S.C. §523(a)(5).

That the obligation of Seven Hundred Dollars and 00/100 Cents (\$700.00) payable to Dr. John Gary incurred for the benefit of the Plaintiff is non-dischargeable pursuant to 11 U.S.C. §523(a)(5).

That the obligation of One Thousand Four Hundred Thirty-Two Dollars and Fifty-Seven Cents (\$1,432.57) to Ford Motor Credit Company on a deficiency balance after repossession of the parties' GTI Rabbit automobile awarded to Defendant (Debtor/Husband) is dischargeable.

That the obligation to Oxford Finance Company in the amount of Two Thousand Nine Hundred Eighty-Five Dollars and Five Cents (\$2,985.05) is non-dischargeable pursuant to 11 U.S.C. §523(a)(5).

That the Defendant is discharged and released from all personal liability for the debt owing to Island Villa Developers, Inc. Said discharge is contingent upon the parties obtaining a full release from Island Villa Developers, Inc., and Bank South, N.A., on said obligation.

MARY C. BECTON

Clerk of Bankruptcy Court

[Seal of the U.S. Bankruptcy Court]

Date of issuance: June 1, 1989

By:

Patsy C. Burkhalter
Deputy Clerk